

PETITION FOR ZONING VARIANCE 85-17-A

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section _____

1B02.3.C.1. to allow a front setback of 10 ft. in lieu of the maximum required average of 50 ft.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

Because of the drainage reservation established by the stream traversing the subject property, the remaining buildable area is very limited as shown on the accompanying plan. If a dwelling which would meet the zoning requirements were to be constructed on this property, the building width would have to be only 15 feet.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: _____
(Type or Print Name)
Signature _____
Address _____
City and State _____
Attorney for Petitioner: _____
Signature _____
Address _____
City and State _____
Name, address and phone number of legal owner, contract purchaser or representative to be contacted _____
Name _____
Address _____
Phone No. _____
Attorney's Telephone No.: (301) 332-6679 _____
Address _____
Phone No. _____

ORDERED By The Zoning Commissioner of Baltimore County, this _____ 20th _____ day of _____ June _____, 1984, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ 23rd _____ day of _____ July _____, 1984, at 10:00 o'clock _____ A.M.

Carl J. Jablon
Zoning Commissioner of Baltimore County.

(over)

85-17-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this _____ 20th _____ day of _____ June _____, 1984.

Arnold Jablon
Arnold Jablon
Zoning Commissioner

Petitioner Richard S. Berger Received by Nicholas B. Commodari
Petitioner's Attorney V. S. Berghel, Esquire Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

Re: Item 332 (1983-1984)
Property Owner: Richard S. Berger
(continued)

Open stream drainage requires a drainage reservation or easement of sufficient width to cover the flood plain for a 100-year design storm; however, a minimum width of 50-feet is required.

Water & Sanitary sewer:

There is a public 10-inch water main in Charles Street Avenue. Public sanitary sewerage is not available to serve this property.

Very truly yours,
Gilbert S. Benson
GILBERT S. BENSON, P.E., Asst. Chief
Bureau of Public Services

GSB:EAM:FWR:rm

KY-O-N.E.
PS- 38 N.W.12
TP-N.W.10-A
TX-69

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

Victoria Smouse Berghel, Esquire
100 South Charles Street
Baltimore, Maryland 21201

RE: Item No. 332 - Case No. 85-17-A
Petitioner - Richard S. Berger
Variance Petition

Dear Ms. Berghel:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a bearing on report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

Nicholas B. Commodari
NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosures

cc: Evans, Hagan & Holdefer, Inc.
8013 Belair Road
Baltimore, Md. 21236

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211
NORMAN E. GENDER
DIRECTOR

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

7-12-84

Re: Zoning Advisory Meeting of 6-12-84
Item # 332
Property Owner:
Location:

Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- () There are no site planning factors requiring comment.
- () A County Review Group Meeting is required.
- () A County Review Group meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- () This site is part of a larger tract; therefore it is defined as a subdivision. The plan must show the entire tract.
- () A record plat will be required and must be recorded prior to issuance of a building permit.
- () The access is not satisfactory.
- () The circulation on this site is not satisfactory.
- () The parking arrangement is not satisfactory.
- () Parking calculations must be shown on the plan.
- () This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- () Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-98 of the Development Regulations.
- () Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- () The intended development Plan was approved by the Planning Board on _____.
- () Landscaping should be provided on this site and shown on the plan.
- () The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is _____.
- () The property is located in a traffic area controlled by a "D" level intersection as defined by Bill 178-79, and as condition, change traffic capacity may become more limited. The Basic Services Areas are re-evaluated annually by the County Council.
- (x) Additional comments:

Subitem 2243, Owner request # 54-26 was granted 4/11/84 for 5' 10" setback from floodplain and 20'.
The site plan must comply with floodplain study approved by Storm Drain Design & Approval Section of DPW.

James A. Howell
James A. Howell
Chief, Current Planning and Development

cc: James Howell

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

July 13, 1984

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item 332 (1983-1984)
Property Owner: Richard S. Berger
111 W. Charles Street Ave. 580' N/E from
c/l Chesapeake Ave.
Acres: 0.88 District 9th.

Dear Mr. Jablon:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highway:

Charles Street Avenue (formerly Md. 139) is proposed to be further improved in the future on a 50 foot right-of-way.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

The Petitioner is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall.

A tributary to Towson Branch transverse this property.

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

July 2, 1984

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 332 -ZAC- Meeting of June 12, 1984
Property Owner: Richard S. Berger
Location: 111 W. Charles Street Avenue 580' N/E from c/l Chesapeake Avenue
Existing Zoning: D.R. 3.5
Proposed Zoning: Variance to permit a front yard setback of 10' in lieu of the required 30'.

Acres: 0.88
District: 9th

Dear Mr. Jablon:

The access to this site is very poor and problems can be anticipated. The proposed access is in the best access location.

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineering Assoc. II

MSP/cem

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for Variance(s) to permit



BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINCKE
CHIEF

June 18, 1984

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Richard S. Berger

Location: NW/S Charles Street Ave. 580' N/E from c/1 Chesapeake Ave..

Item No.: 332 Zoning Agenda: Meeting of 6/12/84

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWED BY: *[Signature]* Noted and Approved: *[Signature]*
Planning Section Fire Prevention Bureau
Special Inspection Division

/mb



County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180
November 16, 1984

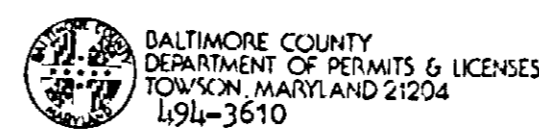
NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 85-17-A RICHARD S. BERGER
W/S Charles St. Ave., 580' N of the c/l of Chesapeake Ave.
9th District
Variance-Setback of 10' in lieu of maximum required average of 50'
ASSIGNED FOR: THURSDAY, JANUARY 24, 1985, at 10 a.m.

cc: Victoria Berghel, Esq. Counsel for Petitioner
Richard S. Berger Petitioner
Eugene P. Smith, Esq. Counsel for Petitioner
Michael M. Behles, et ux Protestant-Appellant
William C. Montross Protestant
Mary Ginn Protestant-Appellant
John C. McDade, et ux " "
Paul J. Marks
Harry & Mary Burgess
Phyllis C. Friedman People's Counsel
Norman Gerber
James Hoswell
Arnold Jablon
Jean Jung
James Dyer
James A. Pine, et al Protestants

June Holmen, Secy.



July 16, 1984

TO: TALEN, JR.
DIRECTOR

FROM: Nick Commodari
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Comments on Item 332 Zoning Advisory Committee Meeting
are as follows:
Property Owner: Richard Berger
Location: NW/S Charles St 580' N.E. from c/1 Chesapeake Ave
Existing Zoning: DR 3.5
Proposed Zoning: Variance to permit a front yard setback of 10' in lieu of 50'

Address: 0.88
District: 9th

The items checked below are applicable:

- (A) All structures shall conform to the Baltimore County Building Code 1981/ Council 1121 1-82 State of Maryland Code for the Building and Code and other applicable Codes.
- (B) A building and other miscellaneous permits shall be required before beginning construction.
- (C) Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required.
- (D) Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- (E) An exterior wall erected within 6'0" of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'-0" of lot lines. A firewall is required if construction is on the lot line. See Table 101, Line 2, Section 1107 and Table 1102.
- (F) Requested variance conflicts with the Baltimore County Building Code, Section/s _____
- (G) A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- (H) Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 101.
- (I) Comments:

NOTE: These comments reflect only on the information provided by the drawings submitted to the Office of Planning and Zoning and are not intended to be construed as the full extent of any permit.
If desired, additional information may be obtained by visiting Room #122 (Plans Review) at 111 West Chesapeake Ave., 21204

Very truly yours,

Charles E. Burnham, Chief
Plans Review

CEN:rrj
POM: C1-82

JAMES A. PINE
ATTORNEY AT LAW
807 BALTIMORE AVENUE
TOWSON, MARYLAND 21204
PHONE (301) 822-8200

December 20, 1984

CHARLOTTE W. PINE
ASSOCIATE

County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

RE: Case No. 85-17-A
6653/204 .89 Acres

Gentlemen:

I am writing to request that our names be added to the list of opponents to the zoning application referenced above.

Our property is directly adjacent to 400 Charles Street Avenue on the West side. The number is 611 Horncrest Road and also known as 432 Charles Street Avenue.

The road at the place proposed for a residence is narrow, winding and partially obstructed in view. The traffic pattern is very poor. An entrance for a residence on the West side is hazardous at best.

Economics always plays a part in zoning. Economics is emphasized when a developer wants higher density or variances or special exceptions. When the price of the ground is high, the owner expects Baltimore County to make numerous concessions in set-back requirements. In this particular instance the price is very cheap, namely, \$9,000 for .89 acres. This property is low-lying wasteland that should be considered flood plain property and not developable.

Your attention to our concern is greatly appreciated.

Very truly yours,

[Signature]
Frank Weikinger
[Signature]
Hally Weikinger
[Signature]
James A. Pine
[Signature]
Charlotte W. Pine

COUNTY RECEIVED
GENERAL ATTORNS
JAN 21 4 35 PM '85

CWP:rec

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
TO: Zoning Commissioner Date: July 17, 1984
Norman E. Gerber, Director
FROM: Office of Planning and Zoning
Richard S. Berger
SUBJECT: No. 85-17-A

Assuming compliance with the flood plain study approved by the Storm Drain Design and Approval Section of the Department of Public Works, this office is not opposed to the granting of the subject petition.

[Signature]
Norman E. Gerber, Director
Office of Planning and Zoning

NEG/JGH/sf

RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER
W/S Charles St. Ave., :
580' N of the Centerline : OF BALTIMORE COUNTY
of Chesapeake Ave. :
(400 Charles St. Ave.), :
9th District :
RICHARD S. BERGER, : Case No. 85-17-A
Petitioner :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

[Signature]
Phyllis Cole Friedman
People's Counsel for Baltimore County

[Signature]
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, MD 21204
494-2188

I HEREBY CERTIFY that on this 29th day of June, 1984, a copy of the foregoing Entry of Appearance was mailed to Victoria Smouse Berghel, 100 S. Charles Street, Baltimore, MD 21201, Attorney for Petitioner.

[Signature]
Peter Max Zimmerman
Peter Max Zimmerman

LIBER 6653 PAGE 304

THIS DEED, Made this 30th day of December, in the year one thousand nine hundred and eighty-three, by and between Bob Evett, party of the first part, and Richard S. Berger, party of the second part.

WITNESSETH, That in consideration of the sum of Nine Thousand and No/100th Dollars (\$9,000.00), the said party of the first part does hereby grant and convey unto the said party of the second part, his personal representatives and assigns, in fee simple, all that lot of ground situate in Baltimore County, Maryland, and described more fully in Exhibit "A" attached hereto and made a part hereof.

BEING the same lot of ground which by Deed dated October 29, 1982, and recorded among the Land Records of Baltimore County, Maryland, at Liber E.H.K. Jr., No. 6456, Folio 464, was granted and conveyed by Annette Ptak, Director of Finance for Baltimore County and Collector of State and County Taxes for said County, unto Bob Evett, the party of the first part hereof.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said party of the second part, his personal representatives and assigns, in fee simple.

AND the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

WITNESS the hand and seal of said grantor.

TEST:

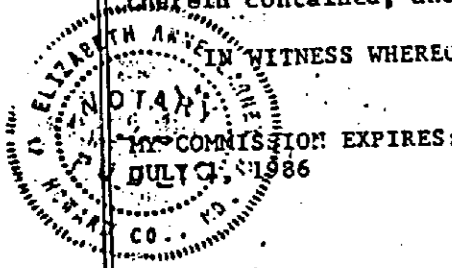
[Signature]
Bob Evett (SEAL)

9 8015****144008 5115A

APR 10 1985

LIBER 6653 PAGE 305

STATE OF MARYLAND, to wit:
I HEREBY CERTIFY, That on this day of December, in the year one thousand nine hundred and eighty-three, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Bob Evert, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained, and, in my presence signed and sealed the same.



Robert S. Berger
Notary Public

B R/C 14 00
D T X 45 00
H M/C 45 00
DEB JR T 104 00
553126 C04 R01 71217
01/13/84

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MD. 21201

FIRM TELEPHONES
BALTIMORE: (301) 332-9600
WASHINGTON AREA: 682-8480
TELECOPIER: (301) 332-9669

WRITER'S DIRECT DIAL NUMBER
(301) 332-8669
May 30, 1984

HAND DELIVERY

The Honorable Arnold Zablon
Zoning Commissioner of Baltimore
County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Zoning Variance
400 Charles Street Avenue

Dear Mr. Zablon:

This Firm represents Richard S. Berger, the owner of the property known as 400 Charles Street Avenue. Mr. Berger acquired the property for the construction of his personal residence.

The extensive engineering work required in designing around the storm water drainage system at the property has caused Mr. Berger to request a variance in order to allow him to build his house. Mr. Berger has been unable to begin construction of his house since his purchase of the property in December, 1983.

Accordingly, I have enclosed Mr. Berger's Petition for Zoning Variance, requesting a variance from Section 1802.3.C.1 to allow a front setback of 10 feet in lieu of the required 30 feet, leaving a setback of 35 feet from the center of Charles Street Avenue. My client looks forward to speedy approval of his Petition, so that construction of his house may commence as soon as possible.

Very truly yours,

Victoria Smouse Berghel

142/pgb

Enclosures
cc: Mr. Richard S. Berger

EXHIBIT "A"
LIBER 6653 PAGE 306

BEGINNING for the same in the center of Charles Street Avenue, at the intersection of the fourth or south 52 degrees 30 minutes west fifty-eight and 97/100th foot line of the parcel of land described in a Deed dated March 12, 1953, and recorded among the Land Records of Baltimore County in Liber GLB No. 2263 folio 424, from Dwight F. Brunk and Robert F. Rodlich, Trustees, to John K. Eareckson and Margaret J. Eareckson, his wife, thence leaving the center line of Charles Street Avenue and binding upon the fifth or north 64 degrees 55 minutes 45 seconds west one hundred thirty-one and 76/100th foot line of the land described in the aforementioned deed to Eareckson and wife, to the southernmost corner of Lot Numbered 56 as shown on Plat No. 3 of Charles Terrace recorded among the Land Records aforementioned in Plat Book GLB No. 18, folio 61 thence binding on part of the rear line of Lot No. 57, as shown on said Plat south 38 degrees 33 minutes 25 seconds west twenty-six and 98/100th feet to a point in said rear line of said Lot No. 57; thence continuing to bind upon the remainder of said rear line of said Lot No. 57 and on the rear line of Lot No. 58 as shown on said Plat b, curve to the left with a radius of 625 feet in a southwesterly direction for a distance of 117.48 feet to the easternmost corner of Lot No. 59 as shown on said Plat thence binding on the rear lines of Lots Nos. 59 and 60 as shown on the aforementioned Plat No. 3 south 18 degrees 24 minutes 00 seconds west 140.09 feet to the easternmost corner of Lot No. 61 as shown on Plat No. 2 of Charles Terrace recorded in the aforesaid Plat Records in Liber GLB No. 17, folio 81; thence binding on a part of the rear line of said Lot No. 61 south 20 degrees 20 minutes 00 seconds west 41.08 feet to a point thence continuing to bind upon the remainder of the said rear line of said Lot No. 61 by a curve to the right with a radius of 500 feet in a southwesterly direction for a distance of 35.53 feet to the easternmost corner of Lot No. 62 as shown on said Plat No. 2 thence south 67 degrees 48 minutes 23 seconds east and binding on the sixth line of the parcel of land described in a Deed dated May 8, 1953, and recorded among the said Land Records in Liber GLB No. 2304, folio 460 from Dwight F. Brunk and Robert F. Rodlich, Trustees, to J. Theodore Johnson and Virginia P. Johnson, his wife, for a distance of 125.43 feet to the center line of Charles Street Avenue as shown on the above mentioned Plat No. 3 thence binding on the said center line of Charles Street Avenue the following courses and distances: north 9 degrees 33 minutes east 8.89 feet; north 4 degrees 07 minutes east 100 feet; north 16 degrees 54 minutes east 55.70 feet; north 27 degrees 27 minutes east 56.30 feet; north 39 degrees 40 minutes east 62.70 feet; north 48 degrees 58 minutes east 63.10 feet; and thence north 52 degrees 30 minutes east 22.41 feet to the place of beginning; subject, however, to a right of way granted by Gordon Development Company, et al, to the County Commissioners of Baltimore County by Deed dated December 30, 1952, and recorded among the Land Records of Baltimore County in Liber GLB No. 2251, folio 363 for sewers, drains, water pipes and other municipal utilities and services ten feet wide, the center line of which right of way is an extension of the division line between Lot No. 60 as shown on Plat No. 3, recorded as hereinbefore recited, and Lot No. 61, as shown on Plat No. 2 of Charles Terrace, recorded as hereinbefore recited; running in a straight line for said width of 10 feet from the aforementioned division line, through Parcel A, as shown on the aforementioned Plat No. 3 of Charles Terrace, south 69 degrees 40 minutes 00 seconds east for a distance of 40 feet, more or less, to the center of a stream there situate, all as shown on the Baltimore County, Bureau of Rights-of-Way Drawing No. R.W. 52-322.

for record, Jan 13 1984 at 12:30 PM
Per Elmer E. Hahnel, Jr., Clerk
Mail to THE SENTINEL TITLE CORP.
Receipt No. 14-100

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MD. 21201

FIRM TELEPHONES
BALTIMORE: (301) 332-9600
WASHINGTON AREA: 682-8480
TELECOPIER: (301) 332-9669

WRITER'S DIRECT DIAL NUMBER
(301) 332-8669
May 30, 1984

HAND DELIVERY

The Honorable Arnold Zablon
Zoning Commissioner of Baltimore
County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Zoning Variance
400 Charles Street Avenue

Dear Mr. Zablon:

This Firm represents Richard S. Berger, the owner of the property known as 400 Charles Street Avenue. Mr. Berger acquired the property for the construction of his personal residence.

The extensive engineering work required in designing around the storm water drainage system at the property has caused Mr. Berger to request a variance in order to allow him to build his house. Mr. Berger has been unable to begin construction of his house since his purchase of the property in December, 1983.

Accordingly, I have enclosed Mr. Berger's Petition for Zoning Variance, requesting a variance from Section 1802.3.C.1 to allow a front setback of 10 feet in lieu of the required 30 feet, leaving a setback of 35 feet from the center of Charles Street Avenue. My client looks forward to speedy approval of his Petition, so that construction of his house may commence as soon as possible.

Very truly yours,

Victoria Smouse Berghel

142/pgb

Enclosures
cc: Mr. Richard S. Berger

IN RE: PETITION FOR
VARIANCE

W/S of Charles Street Avenue, 580'
N of the centerline of Chesapeake
Ave. (400 Charles Street Avenue)
9th Election District

Richard S. Berger,

Petitioner

Entry of Appearance

Please enter my appearance as a party in the above captioned matter, pursuant to Section 501.6, B.C.Z.R., and I hereby request that any and all notices be forwarded to my office, including but not limited to hearing dates and/or preliminary or final Orders.

Certificate of Mailing

IT IS HEREBY CERTIFIED that on this 17th day of September 1984, copies of the foregoing Entry of Appearance were mailed, postage prepaid, by first class delivery to the County Attorney of Baltimore County, People's Counsel for Baltimore County, Petitioner(s) and/or Protestants in the above captioned matter.

Arnold Jablon
Arnold Jablon

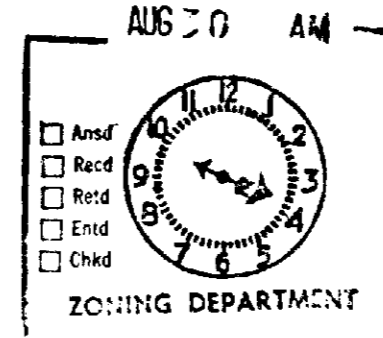
* BEFORE THE
* BOARD OF APPEALS
* OF BALTIMORE COUNTY
* Case No. 85-17-A

Young Gunn, B.C.
Dear Sir,
Re: Case # 85-17-A

Enclosed find \$80 for
appeal of above cases.
Following are protestants:

John J. McNamee DAZE (RANGE)
Margaret T. McNamee 429 Range Rd. 21204
Michael M. Belles 500 Chas St Ave. 21204
Michael M. Belles
Mary Gunn
Mary C. Montross 431 Range Rd. 21204

I am young chairman for
West Towson Neighborhood
Association.
Mary Elizabeth Gunn
825-0360



RICHARD STEVEN BERGER
MAYOR
18101 GLENNMONT ROAD
TIMONUM, MARYLAND 21088
June 8, 1984

The Honorable Arnold Zablon
Zoning Commissioner of Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Zablon,

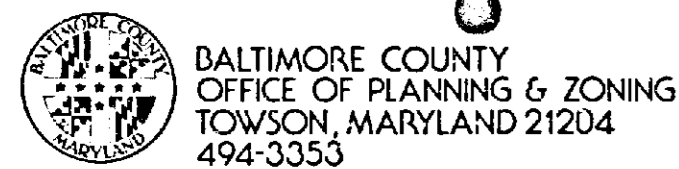
I would like your help in getting an early hearing for a zoning variance so I may construct my personal residence. Please find enclosed copies of the documentation regarding this variance.

It has been a personal hardship for me not to be able to build my new residence since December, 1983. I have already spent the money necessary to comply with all of Baltimore County's engineering requests. Until the engineering was completed, I could not apply for a variance.

Thank you.

Sincerely,
Richard S. Berger
Richard S. Berger

(301) 561-0031



ARNOLD JABLON
ZONING COMMISSIONER

September 17, 1984

Victoria Smouse Berghel, Esquire
100 South Charles Street
Baltimore, Maryland 21201

Re: Petition for Variance
W/S Charles Street Avenue, 580' N of the
c/l of Chesapeake Avenue (400 Charles
Street Avenue)
Richard S. Berger - Petitioner
Case No. 85-17-A

Dear Ms. Berghel:

Please be advised that an appeal has been filed by Mary E. Ginn, et al, protestants, from the decision rendered by the Zoning Commissioner of Baltimore County, in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the County Board of Appeals.

Very truly yours,

Arnold Jablon
ARNOLD JABLON
Zoning Commissioner

AJ:aj

cc: Eugene P. Smith, Esquire
100 S. Charles Street
Baltimore, Maryland 21201

Michael M. Behles
500 Charles Street Avenue
Towson, Maryland 21204

William C. Montross
431 Range Road
Towson, Maryland 21204

Phyllis C. Friedman, Esquire
People's Counsel

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 133275
DATE 8-30-84 ACCOUNT R-01-615-000
AMOUNT \$80.00
RECEIVED FROM Mary Ginn
FOR appeal fee on Case 85-17-A
C 152*****800616 6314F
VALIDATION OR SIGNATURE OF CASHIER

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MD. 21201
FIRM TELEPHONES
BALTIMORE (301) 332-8000
WASHINGTON AREA (301) 332-8000
TELECOPIERS (301) 332-8003
WRITER'S DIRECT DIAL NUMBER
(301) 332-8713
November 5, 1984

County Board of Appeals
Court House
Towson, Maryland 21204

Re: WS of Charles Street Avenue
580' N of the centerline of
Chesapeake Avenue (400 Charles
Street Avenue) 9th Election
District
Case No. 85-17-A
Our File: 22016.3

Gentlemen:

Enclosed herewith is request that you enter my
appearance in the above entitled case.

I am

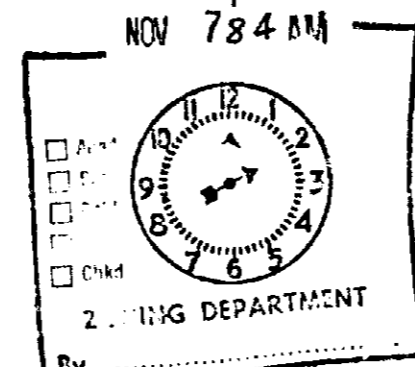
Thanking you for your courtesy and consideration,

Yours very truly,

Eugene P. Smith

119:hs

Enclosure



IN RE: PETITION FOR VARIANCE *
W/S of Charles Street Avenue, *
580' N of the centerline of *
Chesapeake Ave (400 Charles *
Street Avenue) 9th Election *
District *
Richard S. Berger, Petitioner *

BOARD OF APPEALS
OF BALTIMORE COUNTY
Case No. 85-17-A

ENTRY OF APPEARANCE

Please enter my appearance as Attorney for Richard
S. Berger, the Petitioner and Appellee in the above entitled
case.

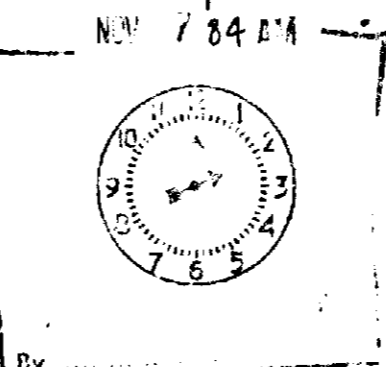
Eugene P. Smith
1400 Equitable Bank Center
100 S. Charles Street
Baltimore, Maryland 21201

Attorney for Petitioner and
Appellee, Richard S. Berger

I HEREBY CERTIFY that on this 5th day of November,
1984, copy of the foregoing request for Entry of Appearance was
mailed postage prepaid to Mary E. Ginn and William C. Montross,
Margaret McDade, 429 Range Road, Towson, Maryland 21204, Michael
M. Behles and Eleanor Behles, 500 Charles Street Avenue, Towson,
Maryland, Appellants in the above entitled case, and Arnold
Jablun, Zoning Commissioner of Baltimore County, Room 109, 111
West Chesapeake Avenue, Towson, Maryland 21204.

Eugene P. Smith

Attorney for Richard S. Berger



June 26, 1984

Victoria Smouse Berghel, Esquire
100 South Charles Street
Baltimore, Maryland 21201

NOTICE OF HEARING

Re: Petition for Variance
W/S of Charles Street Avenue, 580' N of the
c/l of Chesapeake Ave. (400 Charles Street
Avenue)
Richard S. Berger - Petitioner
Case No. 85-17-A

TIME: 10:00 A.M.

DATE: Monday, July 23, 1984

PLACE: Room 106, County Office Building, 111 West Chesapeake
Avenue, Towson, Maryland

Arnold Jablon
Zoning Commissioner
of Baltimore County

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 130577
DATE 5/2/84 ACCOUNT 01-615-000
AMOUNT \$35.00
RECEIVED FROM Richard S. Berger
FOR Filing fee on Case # 332 (Var)
C 015*****350610 6314A
VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF PUBLICATION

TOWSON, MD., July 5, 1984

THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper printed
and published in Towson, Baltimore County, Md., appearing on
July 5, 1984.

THE JEFFERSONIAN,

JB Kenton
Publisher

\$20.00

PETITION FOR VARIANCE
9th Election District
ZONING: Petition for Variance
LOCATION: West side of Charles Street Avenue, 580 ft. North of the centerline of Chesapeake Avenue (400 Charles Street Avenue)
DATE & TIME: Monday, July 23, 1984 at 10:00 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the Petition for Variance to allow a front yard setback of 10 ft. in lieu of the maximum required average of 50 ft. in the property of Richard S. Berger, as shown on the plat plan filed with the Zoning Department.
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing, set above or made at the hearing.
By Order of:
ARNOLD JABLON
Zoning Commissioner
of Baltimore County
July 5, 1984

CERTIFICATE OF PUBLICATION

Towson, Md. 8/20 1984

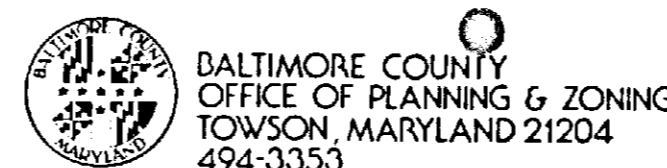
THIS IS TO CERTIFY, that the annexed advertisement was published in the TOWSON TIMES, a weekly newspaper distributed in Towson, Baltimore County, Md., once a week for 1 consecutive weeks, the first publication appearing on the 14th day of July 1984.

THE TOWSON TIMES
M. Unkeller
Cost of Advertisement: \$28.09

PETITION OF VARIANCE
9th Election District
ZONING: Petition for Variance
LOCATION: West side of Charles Street Avenue, 580 ft. North of the centerline of Chesapeake Avenue (400 Charles Street Avenue)
DATE & TIME: Monday, July 23, 1984 at 10:00 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the Petition for Variance to allow a front yard setback of 10 ft. in lieu of the maximum required average of 50 ft. in the property of Richard S. Berger, as shown on the plat plan filed with the Zoning Department.
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing, set above or made at the hearing.
By Order of:
ARNOLD JABLON
Zoning Commissioner
of Baltimore County
July 5, 1984

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 9th
Posted for: Variance
Petitioner: Richard S. Berger
Location of property: W/S of Charles Street Ave. 580' N of the c/l of Chesapeake Ave. 400 Charles Street Ave.
Location of Sign: West side of Charles Street Ave. Approx. 50 ft. from North property line.
Remarks: Stephens J. Kruta
Posted by: Stephens J. Kruta
Number of Signs: 1
Date of Posting: 7-6-84
Date of return: 7-13-84



ARNOLD JABLON
ZONING COMMISSIONER

July 10, 1984

Victoria Smouse Berghel, Esquire
100 South Charles Street
Baltimore, Maryland 21201

Re: Petition for Variance
W/S Charles St. Avenue, 580' N of the c/l of
Chesapeake Ave. (400 Charles St. Avenue)
Richard S. Berger - Petitioner
Case No. 85-17-A

Dear Ms. Berghel:

This is to advise you that \$53.09 is due for advertising and posting of the above property.

This fee must be paid and our zoning sign and post returned on the day of the hearing before an Order is issued. Do not remove sign until day of hearing.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

Arnold Jablon
ARNOLD JABLON
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 131943
DATE 7-25-84 ACCOUNT R-01-615-000
AMOUNT \$53.09
RECEIVED FROM Richard S. Berger
FOR advertising & posting Case 85-17-A
C 064*****530610 6314F
VALIDATION OR SIGNATURE OF CASHIER

PETITION FOR VARIANCE

9th Election District

ZONING: Petition for Variance

LOCATION: West side of Charles Street Avenue, 580 ft. North of the centerline of Chesapeake Avenue (400 Charles Street Avenue)

DATE & TIME: Monday, July 23, 1984 at 10:00 A.M.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Variance to allow a front yard setback of 10 ft. in lieu of the maximum required average of 50 ft.

Being the property of Richard S. Berger, as shown on the plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

IN RE: PETITION ZONING VARIANCE
W/S of Charles Street Avenue,
580' N of the centerline of
Chesapeake Avenue (400 Charles
Street Avenue) - 9th Election
District
Richard S. Berger,
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 85-17-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner here requests a variance to permit a front yard setback of ten feet instead of the maximum required average of 50 feet, as shown on Petitioner's Exhibit 1.

The Petitioner appeared and testified and was represented by Counsel. Michael M. Bechles and William C. Montross appeared and testified as Protestants, as did others named on Protestants' Exhibit 1.

The Petitioner bought the subject property, consisting of 0.88 of an acre, zoned D.R.3.5, in December, 1983. He proposes to construct his primary residence on the northern end of the site, ten feet from the proposed Charles Street Avenue right of way. The 369' x 130' property has a very unusual topography due to a stream traversing through the rear of it, which limits the potential location of any building. The location is also limited by County standards to cover the flood plain for a 100-year design storm. The house cannot be located elsewhere on the property than indicated on Petitioner's Exhibit 1. The Petitioner has completed a flood plain study and indicated that he has satisfied the County that the proposed home would not be adversely effected by the water nor would it impact negatively on the stream. The Petitioner will not alter the stream except to clean it up and maintain its free flow of water. The house is actually 20 feet from the present Charles Street Avenue right of way, but the County has

a 50 foot right of way projected for possible expansion. The nearest home on Charles Street Avenue is 115 feet from the northern property line. There are homes bordering to the east along the rear of the property. If the requested variance is denied, this property will be useless as the County will not permit the house to be constructed anywhere else on the site.

The primary concern of the Protestants is the impact the proposed dwelling will have on the stream. They seem genuinely concerned that the Petitioner know the potential problems he will have with it rather than the problems the stream will have with the dwelling. This stream has the potential to rise dramatically and flood the low land surrounding it. The Petitioner acknowledged his awareness of the stream's power and indicated that he has taken precautions to solve any problems that exist. There is also concern about the run-off down stream and that the house will increase this problem. There will be more ground water and mud. One witness expressed concern about the smoke emanating from any chimney of the proposed home, which will cloud her windows, and also about the trees which will be removed.

Eugene Cross objected to the variance because he believed the dwelling would be too close to the road. He also testified that this would cause a diminution of property values, although he is not a real estate expert. He based his conclusion on his knowledge of the area, where he has lived for 32 years. An examination of the proposed dwelling, Petitioner's Exhibit 2, would appear to totally contradict this contention.

The Petitioner testified that he does not believe property values would decrease because he would want to maintain his home and increase his investment for both personal and financial reasons.

Although Section 185c.3.C.1 of the Baltimore County Zoning Regulations (BCZR) requires a minimum front yard setback of 30 feet, Section 303.1, BCZR,

requires a maximum setback of 50 feet which is determined by averaging the setbacks of the principal buildings adjoining the lot within 200 feet. The only adjoining building within 200 feet is set back 96 feet from the proposed right of way line. As the maximum setback under such circumstances is 50 feet, the greater figure is utilized rather than the minimum 30 feet.

The Petitioner, therefore, seeks relief from Section 303.1, pursuant to Section 307, BCZR.

An area variance may be granted where strict application of the zoning regulation would cause practical difficulty to the petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the petitioner must meet the following:

1. whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2. whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 28 Md. App. 28 (1974).

It is clear from the testimony that if the variance were granted, such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that the practical difficulty or unreasonable hardship would result if the instant variance were not granted. It has been established that the requirement the Petitioner seeks relief from here would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the vari-

once requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 25th day of July, 1984, that the Petition for Zoning Variance to permit a front yard setback of ten feet instead of the maximum required average of 50 feet be and is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the application of the appeal process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Approval of a flood plain study by the Department of Public Works must be obtained by the Petitioner, which then shall be incorporated by reference to this Order.

[Signature]
Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING

DATE July 25, 1984
BY [Signature]

For: Eugene P. Smith, Esquire
Michael M. Bechles
William C. Montross
People's Counsel



WEST TOWSON NEIGHBORHOOD ASSOCIATION, INC.

Jan 25, 1985

Bd. of Appeals,
Rm. 200,
Court House,
Towson, Md 21204

Dear Sirs:

Re: Case 85-17-A - Berger

I forgot to give you the card
re: to Mr. McLean by the Sparks
who live above the Berger property.
They are in Vt. so were unable
to attend

[Signature]
M. J. [unclear]

RECEIVED
COUNTY BOARD OF APPEALS
JUN 28 11:03 AM '85

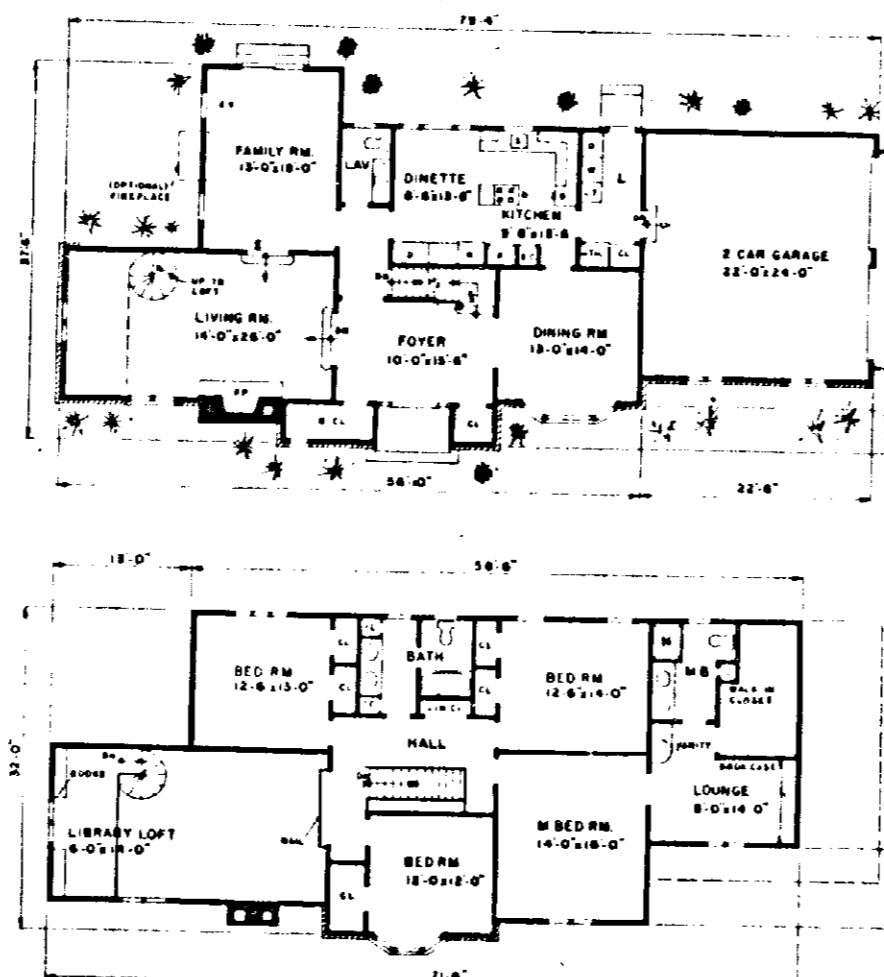


The Wimbledon

Once again, English architecture is enjoying wide popularity because there is something about the dark hand-hewn timber and stone exterior, the many paned and diamond shaped windows and the overall look of solidity of this style that gives an impression of enduring comfort and happiness. Typical of English styling is the open staircase which leads directly from the entrance foyer to the four bedrooms and open balcony on the second floor.

A decorative metal circular staircase provides ready access to the upper "balcony library" that is located at the end of the living room, while directly behind, is the "beamed ceiling" family room which connects with the outdoor terrace. Tasteful touches of Tudor styling suggests the relaxed living of this two-story design.

Area: First floor 1,450 sq. ft.
Second floor 1,500 sq. ft.
Basement 1,200 sq. ft.
Garage 550 sq. ft.



PETITIONER'S
EXHIBIT 2



MARKS, COOKE & THOMAS ASSOCIATES INC.
ARCHITECTURE PLANNING INTERIORS URBAN DESIGN
122 MARKET PLACE - 9TH FLOOR - BALTIMORE, MARYLAND 21202 - (410) 752-2800

October 29, 1984

Baltimore County
Board of Zoning Appeals
Room 200
Baltimore County Court House
Towson, Maryland 21204

Re: Richard Berger
Case No. 85-17-A
Item No. 332

Dear Sirs:

In reference to the above appeal, I wish to be notified when a date and time has been set.

I am the adjoining property owner at 440 Charles Street Avenue and I think that the requested 10' front setback is not only dangerous but completely out of character with the neighborhood, that the waiver of flood plain requirements is a very short-sighted concept, and that such major deviations from established zoning criteria will result in a downgrading of the neighborhood.

Please enter this letter in the record and notify me of any actions regarding the appeal.

Very Truly Yours,

[Signature]
Paul C. Marks, AIA

PJM:jk

COUNTY FILING
RECEIVED
JUL 30 9 49 AM '85

John H. McLean 429 RANGE RD
Leslie Sparks 433 RANGE RD

A. JOHN SOUTHAM 806 ETOW RD. 21204
Eugene B. Cross 501 GAZEM DR 21204
(REPRESENTING WEST TOWSON NEIGHBORHOOD ASSN)

Michael H. Penlee 500 CHESAPEE ST. AVE. 21204

William C. Montross 1731 Rang. Rd. 21204

MR. & MRS. LESLIE SPARKS
433 RANGE ROAD
BALTIMORE, MD. 21204
AGAINST CHANGE IN VARIANCE
FROM THE REQUIRED 50' TO 10'.
JUL 18, 1984
Leslie Sparks
Paul H. Sparks

RE: APPEAL HEARING THURSDAY JANUARY 24, 1985
AT 10:00 AM HEARING ROOM #218, OLD COURTHOUSE
BE SURE AND PHONE 494-5180 THAT MORNING, BEFORE
MAKING THE TRIP, TO MAKE SURE THERE HAVE BEEN
NO CHANGES IN THE DATE.

CASE #85-17-A - RICHARD S. BERGER - PROPERTY
KNOWN AS 400 CHARLES STREET AVENUE. (BACKING
UP TO RANGE ROAD ON LOTS #57-421, #58-429,
#59-427, #60-425, #61-423).

MR. BERGER PLANS TO BUILD A HOUSE. HE WAS
GRANTED A WAIVER OF 8' AND 10' INSTEAD OF 20'
FROM THE FLOOD PLAIN REQUIREMENT, A VARIANCE
FROM THE REQUIRED STREET SETBACK OF 50' TO
10' AND A SPECIAL TURN-AROUND ON SITE DRIVEWAY.

WEST TOWSON NEIGHBORHOOD ASSOCIATION
OVER:

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

85-17-A

District: 2th Date of Posting: 9-22-84
Posted for: A. paper
Petitioner: Richard S. Berger
Location of property: W/S of Charles St. Ave. 580' N of the Chl
of Chesapeake Ave.
Location of Sign: West side of Charles St. Avenue opposite
50' South of north property line
Remarks: _____
Posted by: A. paper Date of return: 9-22-84
Number of Signs: 1

9th District
#85-17-A
W/S Charles St. Ave., 580' N of c/l of Chesapeake Ave.
Richard S. Berger
1 SIGN

520 Charles St. Avenue
Towson, Maryland 21204
Tel. 823-7287

November 11, 1984

Mrs. Eisenhart
Baltimore County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

Dear Mrs. Eisenhart,

We are very interested in the Zoning
Appeal Case No. 85-17-A brought by Mr. Richard
Berger.

We ask that you please notify us as to when
the hearing is to be held and the location of the
hearing, as we wish to be present.

Sincerely yours,
Mary J. Burgess
(Mrs.) Mary J. Burgess
Harry J. Burgess

RECEIVED
COUNTY BOARD OF APPEALS
NOV 15 A 11 20

11/16/84 - Following were notified of hearing set for Thurs. Jan. 24, '85, at 10 a.m.:

Victoria Berghel
Richard Berger
Eugene Smith
Michael Behles, et ux
Wm. Montross
Mary Ginn
John McDade, et ux
Paul Marks
Harry and Mary Burgess
Phyllis Friedman
N. Gerber & J. Hoswell
A. Jablon, J. Jung, J. Dyer

TO WHOM IT MAY CONCERN:

THIS IS TO ADVISE THAT THE FOLLOWING INDIVIDUALS
ARE CURRENTLY DULY ELECTED MEMBERS OF THE BOARD OF GOVERNORS
OR MEMBERS IN GOOD STANDING OF THE WEST TOWSON NEIGHBORHOOD
ASSOCIATION, AND AS SUCH EACH IS AUTHORIZED TO TESTIFY ON
BEHALF OF THE BOARD ON ALL ZONING MATTERS AFFECTING THE
INTERESTS OF THIS ASSOCIATION:

1. - A COPY OF THE ASSOCIATION'S ANNUAL ZONING AUTHORIZATION
RESOLUTION DATED APRIL 30, 1984 IS ATTACHED.
2. - A LETTER OF THE ASSOCIATION, DATED JAN. 24, 1984 AND
ATTACHED HERETO, SETS FORTH THE POSITION OF THE BOARD
OF GOVERNORS IN THIS MATTER AS EMBODIED IN A DULY ADOPTED
RESOLUTION OF THE BOARD.

ATTEST:

Mary Elizabeth Ginn Joy Biddison
SECRETARY V. PRESIDENT
MARY ELIZABETH GINN JOY BIDDISON

THIS ASSOCIATION'S GEOGRAPHICAL LIMITS OR BOUNDRIES ARE:
JOPPA ROAD ON THE NORTH
CENTRAL AVENUE ON THE EAST
CHESAPEAKE/TOWSONTOWNE BOULEVARD ON THE SOUTH
CHARLES STREET ON THE WEST

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MD. 21201

FIRM TELEPHONES
BALTIMORE: (301) 332-8900
WASHINGTON AREA: 821-5400
TELECOPIER: (301) 332-8903

WRITER'S DIRECT DIAL NUMBER:
(301) 332-8713
November 5, 1984

County Board of Appeals
Court House
Towson, Maryland 21204

Re: W/S of Charles Street Avenue
580' N of the centerline of
Chesapeake Avenue (400 Charles
Street Avenue) 9th Election
District
Case NO. 85-17-A
Our File: 22016.3

Gentlemen:

Enclosed herewith is request that you enter my
appearance in the above entitled case.

Thanking you for your courtesy and consideration,

Yours very truly,

Eugene P. Smith

RECEIVED
COUNTY BOARD OF APPEALS
NOV 15 A 11 19
ENCLOSURE

IN RE: PETITION FOR VARIANCE

W/S of Charles Street Avenue,
580' N of the centerline of
Chesapeake Ave (400 Charles
Street Avenue) 9th Election
District

BOARD OF APPEALS
OF BALTIMORE COUNTY
Case No. 85-17-A

Richard S. Berger, Petitioner

ENTRY OF APPEARANCE

Please enter my appearance as Attorney for Richard

S. Berger, the Petitioner and Appellee in the above entitled

Eugene P. Smith
1400 Equitable Bank Center
100 S. Charles Street
Baltimore, Maryland 21201

Attorney for Petitioner and
Appellee, Richard S. Berger

I HEREBY CERTIFY that on this 5th day of November,
1984, copy of the foregoing request for Entry of Appearance was
mailed postage prepaid to Mary E. Ginn and William C. Montross,
431 Range Road, Towson, Maryland 21204, John G. McDade and
Margaret McDade, 429 Range Road, Towson, Maryland 21204, Michael
M. Behles and Eleanor Behles, 500 Charles Street Avenue, Towson,
Maryland, Appellants in the above entitled case, and Arnold
Jablon, Zoning Commissioner of Baltimore County, Room 109, 111
West Chesapeake Avenue, Towson, Maryland 21204.

Eugene P. Smith

Attorney for Richard S. Berger



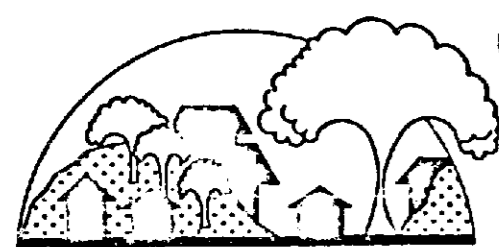
WEST TOWSON NEIGHBORHOOD ASSOCIATION, INC.
704 ALLEGHENY
JAN 24, 1985

RESOLVED, by the unanimous vote of the members of the West Towson
Neighborhood Association taken at their Annual Meeting held on APRIL
30, 1984 that the Board of Governors of the Association is hereby
authorized for the forthcoming year to take full responsibility for
review and action on all zoning matters in any way affecting the
interest of the Association.

ATTEST:
Mary Elizabeth Ginn
MARY ELIZABETH GINN

Joy Biddison
JOY BIDDISON
VICE-PRESIDENT

APR 10 1985



WEST TOWSON NEIGHBORHOOD ASSOCIATION, INC.
704 ALLEGHENY AVE.
TOWSON, MD. 21204

JAN. 24, 1985

BOARD OF APPEALS
OLD COURTHOUSE
TOWSON, MD. 21204

DEAR SIRs:

RE: CASE # 85-17-A
BERGER PROPERTY

THE BOARD OF GOVERNORS OF THE ASSN
AT ITS REGULARLY SCHEDULED MEETING
IN DECEMBER, 1984, VOTED UNANIMOUSLY
TO OPPOSE BUILDING ON THE BERGER
PROPERTY.

SINCERELY

Joy Biddison
JOY BIDDISON
VICE-PRESIDENT

ATTEST:

Mary Elizabeth Ginn
MARY ELIZABETH GINN



Baltimore County, Maryland

PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204
494-2188

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

January 23, 1985

The Honorable
William T. Hackett, Chairman
County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

RE: Richard S. Berger, Petitioner
Zoning Case No. 85-17-A (Item 332)

Dear Chairman Hackett:

Please issue a summons to Michael S. Flanagan, Assistant Traffic
Engineer, to appear and testify in the above case on Thursday, January 24,
1985, at 10:00 a.m.

Very truly yours,

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

PMZ:sh

RECEIVED
COUNTY BOARD OF APPEALS
JAN 23 1985



Baltimore County, Maryland

PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204
494-2188

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

January 24, 1985

The Honorable
William T. Hackett, Chairman
County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

RE: Richard S. Berger, Petitioner
Zoning Case No. 85-17-A

Dear Chairman Hackett:

Enclosed please find the section from the Master Plan which
I stated I would provide to the Board.

Very truly yours,

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

cc: Eugene P. Smith, Esquire

PCF:sh

RECEIVED
COUNTY BOARD OF APPEALS
JAN 24 1985

PEOPLE'S COUNSEL ~~BOARD OF APPEALS~~

BALTIMORE COUNTY MASTER PLAN 1979-1990



land use element



BALTIMORE COUNTY MASTER PLAN

PHYSICAL DEVELOPMENT PLAN

PART I

LAND USE ELEMENT

November 19, 1979

Evaluate all proposed major projects and zoning changes in terms of their
relationship to Coastal Zone Management goals.

STREAM VALLEYS

Policies

"Stream valleys, consisting of floodplains and adjacent steep slopes of more
than 20%," says the Master Plan, "serve as easements to accommodate the overflow
from the streams and provide for excess water, reducing downstream and upstream
flooding. The floodplain portions of stream valleys are deposition areas for a
significant amount of the sediment load in flood water, preventing the sedi-
mentation of downstream surface ponds or other bodies of water. Stream valley
parks also serve as important wildlife habitats, allow for continuous walks and
paths along the streams, and may link homes with schools, shopping and other
destinations. For these reasons, the natural functions of stream valleys should
not be impaired in any way by either public or private projects. Baltimore
County should make strong recommendations along these lines to the State in
regard to all applications which require a State permit to fill or otherwise
change the area contained within the 100-year floodplain. The County itself
should establish a stream valley or flood protection zoning classification to
protect the integrity of these areas and should continue to implement
stream-valley parks in suitable areas."

Two concerns are presented here, one relating to hazards associated with flood-
plains and the other concerning stream valleys as an open space resource.
Protection for the 100-year floodplain has not yet been fully incorporated in
zoning and subdivision controls. The stream valley park acquisition program
continues.

Objectives

To realize stream valley preservation, the County should continue its stream
valley park acquisition program and enact stronger controls for floodplains, and
steep slopes through zoning, subdivision and development impact statement
requirements.

Future increased flooding hazard and associated environmental impacts can be
mitigated through strengthening of existing floodplain regulations and adoption
of stormwater management policies emphasizing on-site recharge of overland flow.
County policies, rules and regulations should be considered which:

Prohibit structures and impervious surfaces from 100-year floodplains;

Regulate development to ensure that the aggregate of uses will not cause
storm damage and flooding patterns to exceed the capacity of natural
floodways or to subject other areas to increased potential for damages by
flooding or to pollute natural streams;

¹ Ibid, pp. 263-275.

² Baltimore County Comprehensive Plan, 1975, p. 17.

WEINBERG AND GREEN ATTORNEYS AT LAW 100 SOUTH CHARLES STREET BALTIMORE, MD. 21201

FIRM TELEPHONES
BALTIMORE (301) 332-8800
WASHINGTON AREA (202) 462-1000
TELECOPIER (301) 332-8863

WRITER'S DIRECT DIAL NUMBER
(301) 332-8713

January 28, 1985

Hon. William T. Hackett
Chairman, County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

Re: Richard S. Berger, Petitioner
Zoning Case No. 85-17-A
Our File: 22016.3

Dear Mr. Hackett:

I received from Phyllis Cole Friedman, People's
Counsel for Baltimore County, copy of "stream valleys
policies" sent to you under cover of her January 24, 1985
letter, and have sent to her copy of this reply letter, in
which I point out the following: The testimony in the subject
case clearly showed that no grading or other work was per-
mitted within the 100-year floodplain. In our case, no grading
or work is to be done within the floodplain, but everything
which is to be done is to be done outside of the floodplain,
under a proper grading or building permit. Accordingly, Berger
is in complete compliance with the policy.

Respectfully yours,

Eugene P. Smith
Eugene P. Smith

RECEIVED
COUNTY BOARD OF APPEALS
JAN 29 1985

cc: Phyllis Cole Friedman



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

February 14, 1985

Ms. Mary Ginn
606 Horncrest Road
Towson, Md. 21204

Dear Ms. Ginn:

Re: Case No. 85-17-A
Richard S. Berger

Enclosed herewith is a copy of the Opinion and Order
passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Jane Holmen
Jane Holmen, Secretary

Encl.
cc: Victoria S. Berghel, Esq.
Richard S. Berger
Eugene P. Smith, Esq.
Michael M. Behles, et ux
William C. Montross
Phyllis C. Friedman
John G. McDade, et ux
Paul J. Marks
James Pine, et al
Harry & Mary Burgess
Norman Gerber
James Hoswell
Arnold Jablon
Jean Jung
James Dyer

County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

February 21, 1985

Mrs. Mary Ginn
606 Horncrest Road
Towson, MD 21204

Re: Case No. 85-17-A
Richard S. Berger

Dear Mrs. Ginn:

Enclosed herewith is a copy of the corrected front page of the Opinion and Order passed by the Board of Appeals on February 14, 1985.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Enclosure

cc: Victoria S. Berghel, Esquire
Richard S. Berger
Eugene P. Smith, Esquire
Michael M. Behlles, et ux
William C. Montross
Phyllis Cole Friedman
John G. McDade, et ux
Paul J. Marks
James Pine, et al
Harry & Mary Burgess
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
Jean E. Dyer

IN THE MATTER OF : : BEFORE
THE APPLICATION OF : :
RICHARD S. BERGER : : COUNTY BOARD OF APPEALS
FOR VARIANCE IN PROPERTY : :
LOCATED ON THE WEST SIDE OF : : OF
CHARLES STREET AVENUE, 580' : :
NORTH OF THE CENTER LINE OF : : BALTIMORE COUNTY
CHESAPEAKE AVENUE. : :
(400 CHARLES STREET AVENUE) : : No. 85-17-A
9th DISTRICT

OPTION

The above captioned matter comes before this Board on an appeal from the decision of the Zoning Commissioner dated July 31, 1984. The sole issue before this Board is the requested variance to permit a front yard set back of ten (10) feet in lieu of the required average of fifty (50) feet.

The Petitioner produced as his only witness, Mr. Juri Miste, a ^{MAISTE}
~~SURVEYOR~~ Professional landscaper who testified that his inspection of the subject site clearly indicates that the only possible location on which the proposed single family dwelling could be constructed is that depicted on the plat marked Petitioner's Exhibit One. However, said location does require the requested front yard setback variance. Mr. Miste did recite the history of the subject property and the waivers obtained from Baltimore County so as to permit construction of the dwelling within eight (8) and ten (10) feet of the flood plain in lieu of the required twenty (20) feet.

A number of Protestants, primarily residents of the surrounding area, testified in opposition to the requested variance; however, a review of their opposition relates not to the requested variance, but instead to the waiver given by Baltimore County with respect to the flood plain. They did not feel that the Petitioner could construct this house, as proposed, without affecting the stream running behind the proposed dwelling. However, that issue is not before this Board.

Copy on which changes were made per phone call from Eugene Smith - corrected front page sent out 3/21/85

IN THE MATTER OF	:	BEFORE
THE APPLICATION OF	:	
RICHARD S. BERGER	:	COUNTY BOARD OF APPEALS
FOR VARIANCE ON PROPERTY	:	
LOCATED ON THE WEST SIDE OF	:	OF
CHARLES STREET AVENUE, 580'	:	
NORTH OF THE CENTER LINE OF	:	BALTIMORE COUNTY
CHESAPEAKE AVENUE,	:	
(400 CHARLES STREET AVENUE)	:	No. 85-17-A
9th DISTRICT	:	

O P I N I O N

The above captioned matter comes before this Board on an appeal from the decision of the Zoning Commissioner dated July 31, 1984. The sole issue before this Board is the requested variance to permit a front yard set back of ten (10) feet in lieu of the required average of fifty (50) feet.

The Petitioner produced as his only witness, Mr. Juris Maiste, a ^{Maiste} ~~juror~~ ^{WLC} ~~surveyor~~ Professional/Landscape Architect who testified that his inspection of the subject site clearly indicates that the only possible location on which the proposed single family dwelling could be constructed is that depicted on the plat marked Petitioner's Exhibit One. However, said location does require the requested front yard setback variance. ^{Maiste} ~~Mr. Maiste~~ ^{WLC} did recite the history of the subject property and the waivers obtained from Baltimore County so as to permit construction of the dwelling within eight (8) and ten (10) feet of the flood plain in lieu of the required twenty (20) feet.

A number of Protestants, primarily residents of the surrounding area, testified in opposition to the requested variance, however, a review of their opposition relates not to the requested variance, but instead to the waiver given by Baltimore County with respect to the flood plain. They did not feel that the Petitioner could construct this house, as proposed, without affecting the stream running behind the proposed dwelling. However, that issue is not before this Board.

Richard S. Berger
Case No. 85-17-A

2.

Mr. Flannigan, Traffic Engineer, testified that the only adverse impact created by the construction of the proposed dwelling, would be another access onto Charles Street Avenue and thus another break in the guard rail.

The Zoning Commissioner, in detail, cited the applicable law. This Board recognizes that law and incorporates same in this opinion, by reference.

A review of the evidence clearly indicates that the Petitioner's proposed structure may, indeed, be ill advised. He may, in fact, be inviting problems by building within the flood plain. However, he has already obtained the requisite waivers from Baltimore County. However, that issue is not before this Board.

It is clear that the Petitioner cannot locate his proposed dwelling in any other area of the subject property. In this Board's view, the requested variance would not adversely affect the health, safety and general welfare of the community.

The County Council, in their wisdom, zoned the subject property D.R. 3.5. That legislative body could have zoned the property open space, or they could have opted to purchase the property. This Board must conclude that the legislative body intended this parcel for the use for which it was zoned.

Consequently, in this Board's view, the Petitioner has demonstrated the requisite practical difficulty and undue hardship required for this Board to grant a variance. This Board does agree that the refusal of the requested variance precludes development of the subject property, and therefore, could, conceivably constitute confiscation.

The requested variance shall be granted.

Richard S. Berger
Case No. 85-17-A

3.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 14th day of February, 1985, by the County Board of Appeals, ORDERED that the decision of the Zoning Commissioner, dated July 31, 1984, be and hereby is AFFIRMED in its entirety.

Any appeal from this decision must be in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

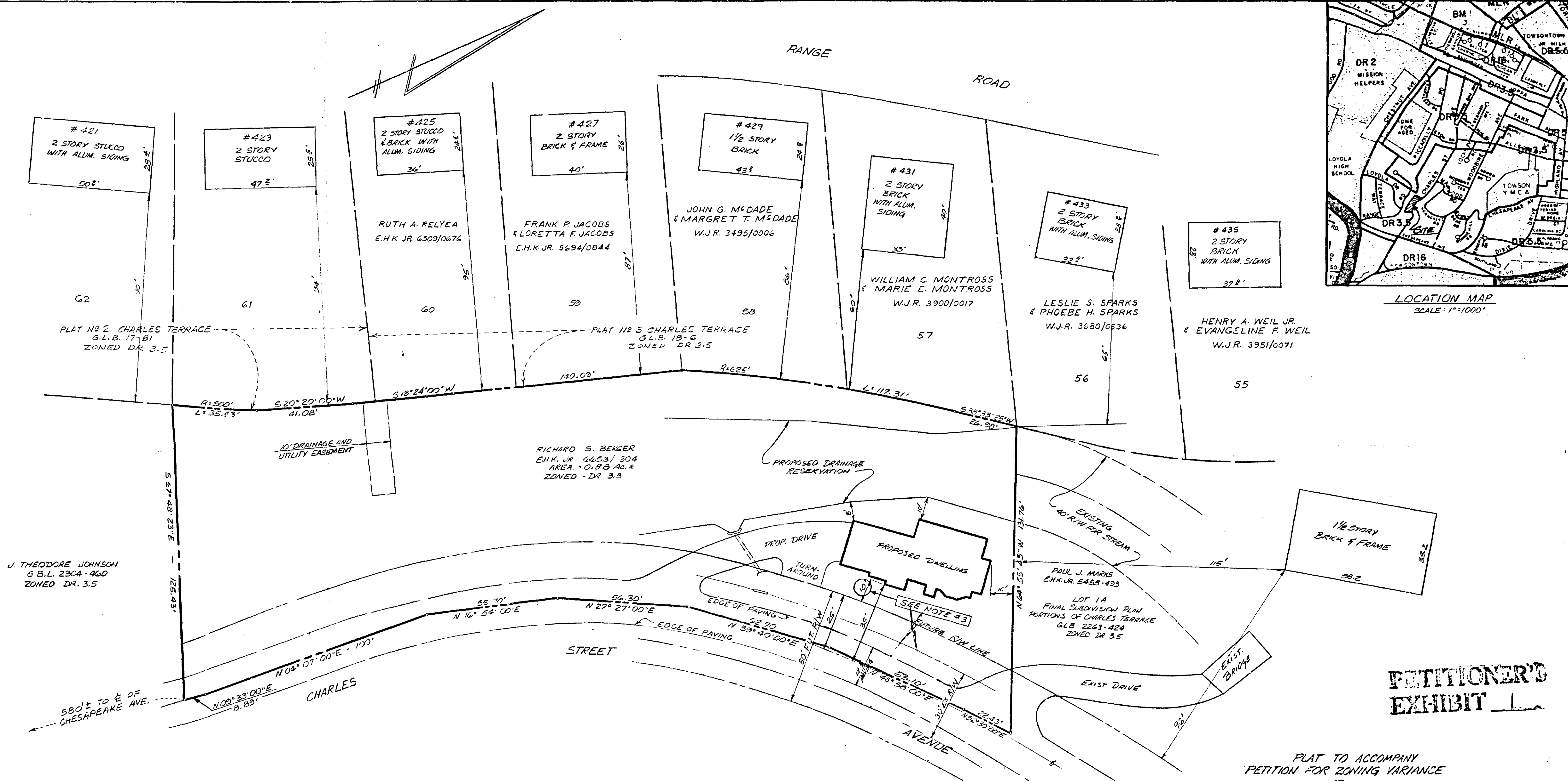
William T. Hackett
William T. Hackett, Chairman

William R. Evans
William R. Evans

Lawrence E. Schmidt

RANGE

ROAD



**PETITIONER'S
EXHIBIT 1**


PLAT TO ACCOMPANY
PETITION FOR ZONING VARIANCE
AT
*400 CHARLES STREET AVENUE ---
9TH ELECTION DISTRICT, BALTIMORE CO. MD.

FOR
RICHARD S. BERGER
P.O. BOX 308
TIMONIUM, MARYLAND, 21093
PHONE: (301) 561-0031

Revised
Item 33
6/18/14

GENERAL NOTES:

1. AREA OF TRACT : 0.88 AC.±
2. PRESENT ZONING : DR 3.5
3. PROPOSED ZONING : DR 3.5 WITH A REQUEST FOR VARIANCE
FROM SECTION 18.02.3.C.1 FOR A FRONT
YARD SETBACK OF 10' IN LIEU OF THE REQUIRED 50'
4. PRESENT USE : VACANT
5. PROPOSED USE : 1 RESIDENTIAL DWELLING.

<div style="text-align: center;"> EVANS, HAGAN & HOLDEFER, INC. ENGINEERS, LAND PLANNERS & SURVEYORS </div>		
DATE	REVISION	BY
6-20-84	TURNAROUND ADDED AND MINOR REVISIONS	
SURVEYED BY	8013 BELAIR ROAD / BALTIMORE MD 21236 (301) 668-1501	
COMPUTED BY	530 POLARA STREET / CAMDENDE MD 21815 / (301) 728-1000 111 JOHNS STREET / WESTMINSTER MD 21157 / (301) 848-1780 1004 WYETH STREET / LAUREL MD 20707 / (301) 782-8086	
DRAWN BY		
CHECKED BY		
JM Drwg. No.	DATE 5/19/84 SCALE 1"=20' 